

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARGARET DARR,

Plaintiff,

vs.

No. CIV 18-0672 JB\SCY

NEW MEXICO DEPARTMENT
OF GAME AND FISH,

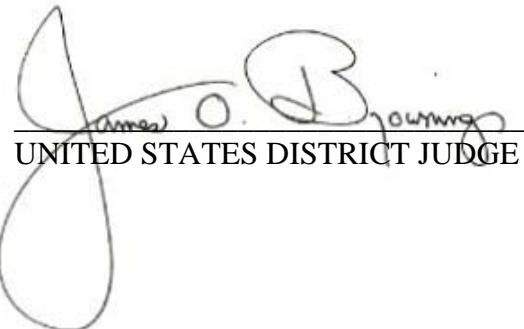
Defendant.

ORDER¹

THIS MATTER comes before the Court on the Defendant New Mexico Department of Game and Fish's Motion to Dismiss Count II of the Complaint, filed July 30, 2018 (Doc. 12)(“MTD”). The Court held a hearing on September 25, 2018. The primary issue is whether the Court should dismiss Plaintiff Margaret Darr's claim under the Fair Pay for Women Act, N.M. Stat. Ann. § 28-23-1, because the Fair Pay for Women Act does not contain an express waiver of sovereign immunity from suit for money damages. The Court in its Order, filed March 26, 2019 (Doc. 26), granted Darr's Opposed Motion for Remand and Memorandum in Support, filed July 19, 2018 (Doc. 6), because the Court concluded that the case does not involve a federal question. Hence, the Court lacks subject-matter jurisdiction over the case and cannot consider the Defendant New Mexico Department of Game and Fish's MTD. The MTD, therefore, is moot in federal court.

¹This Order disposes of the Defendant New Mexico Department of Game and Fish's Motion to Dismiss Count II of the Complaint, filed July 30, 2018 (Doc. 12). The Court will issue, however, a Memorandum Opinion at a later date more fully detailing its rationale for this decision. The Court has not, however, issued a Final Judgment, so this Order is not appealable at this time, and is not appealable until the Court enters Final Judgment.

IT IS ORDERED that the request in the Defendant New Mexico Department of Game and Fish's Motion to Dismiss Count II of the Complaint, filed July 30, 2018 (Doc. 12), is dismissed as moot in federal court.



James O. B. Dowling
UNITED STATES DISTRICT JUDGE

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--and--

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